

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

JAMES GARNER,

Petitioner,

v.

RALPH DIAZ,

Respondent.

No. 2:20-cv-2143 DB P

ORDER

Petitioner, a state prisoner proceeding pro se, is proceeding with a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. On December 21, 2021, respondent filed an answer to the petition. (ECF No. 16.) On December 23, 2021, respondent also filed a notice of lodging with the court. (ECF No. 17.) Both the answer and the notice of lodging contain a declaration of service stating that respondent served these documents on petitioner by mailing them to petitioner's address of record. (ECF No. 16 at 28; ECF No. 17 at 3.) On August 14, 2022, petitioner informed the court that he had not received either document and requested that it direct respondent to re-serve them. (ECF No. 20.) The court granted petitioner's request on February 24, 2023. (ECF No. 21.)

On February 27, 2023, respondent's counsel filed a declaration stating that the answer and notice of lodging had been re-served on petitioner by mail. (ECF No. 22.) The declaration indicated that counsel sent the documents to petitioner's address of record. (Id.)

1 On November 2, 2023, petitioner notified the court that he did not receive the documents
2 that respondent's counsel sent on February 27. (ECF No. 23.) He asks the court to direct counsel
3 to re-serve them again. (Id.) The court notes that petitioner's notice provides an address for
4 petitioner that is different from his address of record. (Id.) Specifically, while his address of
5 record lists P.O. Box 903 at Avenal State Prison as his mailing address, the November 2 notice
6 identifies P.O. Box 906 as his mailing address. (Id.)

7 It is petitioner's responsibility to ensure that his address of record with the court is
8 accurate. E.D. Loc. R. 182(f). As it is not clear whether petitioner's address of record reflects his
9 current mailing address, the court will deny his November 2 request without prejudice and direct
10 petitioner to notify the court whether his address of record is correct. Petitioner may renew his
11 request for re-service when he provides the required notice.

12 IT IS HEREBY ORDERED that:

- 13 1. Petitioner's second notice regarding not receiving documents (ECF No. 23) is denied
14 without prejudice; and
- 15 2. Not later than thirty days from the date of this order, petitioner shall notify the court
16 whether his address of record with the court represents his current mailing address. To
17 the extent that it does not, petitioner shall provide the court with his current mailing
18 address.

19 Dated: November 27, 2023

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21 
22 DEBORAH BARNES
23 UNITED STATES MAGISTRATE JUDGE

24 DB: 15
25 DB/DB Prisoner Inbox/Habeas/R/garn2143.reserve
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